

ASSESSMENT OF CURRENT POLICIES, PROCEDURES, AND REGULATIONS

There are numerous regulatory issues that apply to the RIDS program. Emerging policies and regulations are evolving for projects like ASR and surface water withdrawals. The RIDS is on the leading edge of some of these applications, so it is appropriate to assess how specific regulations may affect this initiative.

Surface water ASR is currently being evaluated for the Comprehensive Everglades Restoration Program (CERP). There will ultimately need to be a determination made by FDEP on the water quality criteria for the injection of surface water into ASR wells. The difference between the degree of treatment to meet Primary and Secondary drinking water quality as defined by the Safe Drinking Water Act and incorporated into FAC 62-550, and the minimum criteria for injection wells, is substantial in terms of costs to the overall program. The USEPA has indicated a willingness to allow recharge water that contains Coliform bacteria for the CERP ASR demonstration program. It may not be unreasonable for them to also consider a water quality criterion that slightly exceeds the primary standards for turbidity as long as fundamentally, the turbidity and resulting particles are not a clogging problem for the wells.

Further, there is the need to allow for natural attenuation of bacteria and other microbiota (viruses and protozoa) within the ASR storage zone such that discrepancies between the Safe Drinking Water Act (SDWA) and the EPA underground injection control program requirements are reconciled. With these water quality issues resolved there is great potential for lower technology processes to meet water quality goals within a more reasonable expectation of costs and complexity of the systems.

In this manner, the main criteria would be turbidity and/or particle size consistent with protection of the ASR well and disinfection to meet a Coliform reduction based on daily sampling in which no more than one sample is positive for Total Coliform and no single sample exceeds 4 total Coliforms per 100 mL.

If there is agreement for relaxed treatment requirements for disinfection, wherein the water quality requirements are only to meet a Coliform level of not more than 4 colonies/100mL sample, then the following will suffice:

- A treatment system to meet particulate removals consistent with protecting the injection system (not plugging the well).
- Corrosion control to prevent the injected water causing a corrosive atmosphere to the receiving formation will be sufficient.

However, the concern of disinfecting minimally for Coliforms while preventing Disinfection By-Products remain a concern; therefore, the following methods may be appropriate:

- Bankfiltration systems followed by either a UV disinfection or a low tech solid chemical chlorine/ammonia feed system to provide some limited free chlorine for bacteria and virus inactivation followed by chloramines for further disinfection contact time without a major production of DBPs.
- Slow-sand filtration systems followed by the same level of disinfection as described above (chlorine/ammonia).

The RIDS has assumed the use of bankfiltration systems for source water for ASR in lieu of more costly technologies, such as membranes.

The following is a brief overview of the regulations that will apply to the RIDS projects; it is not intended to be an exhaustive list or comprehensive discussion, but rather to provide a summary of the regulatory environment in which the RIDS will be developed:

Florida Department of Environmental Protection (FDEP) Regulations

Relevant FDEP regulations, as published in the Florida Administrative Code (FAC), were summarized for their relevance to the RIDS project.

Chapter 62-40, FAC – Water Resource Implementation Rule

Chapter 62-40, FAC, contains FDEP policies on water resources in Florida and establishes a cooperative relationship with the Water Management Districts in water resource issues. Under the general water policy provisions, reclaimed water is specifically identified as an integral part of water management programs. FDEP also encourages the use of water of the lowest acceptable quality for the purpose intended. Under the water use guidelines, it is stated that no water use permit shall be granted by the Water Management District unless the applicant demonstrates a reasonable beneficial use for that water.

Chapters 62-520 & 522, FAC – Ground Water

The relevant chapters on the subject of ground water focus on protecting the present and future most beneficial uses of ground waters of the state. To ensure their protection, classifications for ground waters of the State have been established. Appropriate water quality designations are outlined in these chapters.

Chapter 62-520, FAC, contains the minimum criteria for ground water and classification descriptions ranging from G-1 (which has the most stringent regulations), to G-IV (the least stringent). This chapter also includes a list of exemptions for each class of ground water.

Chapter 62-522, FAC, discusses ground water monitoring and permitting. This includes recharging aquifers with surface water and reclaimed water ASR. An allowable zone of discharge is expressed for each classification, and monitoring requirements and exemptions are also discussed.

Chapter 62-528, FAC – Underground Injection Control

The Underground Injection Control Program (UIC) is a delegated federal program authorized under the EPA Safe Drinking Water Act. It is under this program that ASR wells are permitted. All wells included in the RIDS would fall under the Class V category, and would most likely be in Group 7 (Aquifer Storage and Recovery System Wells).

Aquifer Storage and Recovery

As indicated above, FDEP rules contained in Chapter 62, Section 528 of the Florida Administrative Code (FAC), govern the permitting and operation of ASR wells. Subsection 300 is of special interest in the permitting of surface water and reclaimed water ASR wells. This portion of the regulations deals with aquifer exemptions. Such exemptions may be needed for certain injection water quality

parameters, such as color, which do not meet Secondary Drinking Water Standards. Minor exemptions are fairly straightforward for aquifers, which have total dissolved solids (TDS) concentrations between 3,000 and 10,000 milligrams per liter (mg/L).

Well Construction

Regulations regarding construction and testing of ASR wells are contained in FAC Chapter 62, Section 528. In addition to obtaining an FDEP Class V well construction permit, a well construction permit must also be obtained from the agency that permits wells in a particular jurisdiction. In portions of Lee County, it is the Lee County Water Resources Department, which permits small diameter wells. In other parts of Lee County, it is a local government, such as the City of Cape Coral, which permits small diameter wells. However, all of the ASR wells contemplated will have final casing diameters greater than six inches and will therefore be permitted through the SFWMD, as well as the FDEP *Chapter 62-600, FAC – Wastewater Facilities*

Chapter 62-600, FAC, discusses planning for wastewater facilities design and expansion and goes into some detail discussing minimum treatment standards, disinfection, pH, and other design and operational criteria. It also details the required treatment levels for all types of disposal, including discharge to surface waters, reuse and land application, and disposal by underground injection. It is expected this chapter will govern many aspects of the design and construction of RIDS infrastructure.

Chapter 62-604, FAC – Collection Systems and Transmission Facilities

This chapter imparts information on basic design principles that should be upheld, including details on fencing, siting, and special crossings. A requirement for uninterrupted service and a procedural outline for abnormal events are also included in this chapter.

Chapter 62-610, FAC, Part I – Reuse of Reclaimed Water and Land Application

The first part of this rule provides design, operation, and maintenance criteria for land application systems, surface water discharge projects involving reuse for ground water discharge, indirect potable use, or other beneficial purposes. For all new or expanded reuse or land application projects, a preliminary design report must be submitted to FDEP. Any exceptions to this are noted in this rule.

South Florida Water Management District (SFWMD) Regulations

Formed by Florida State Legislature in 1949, the Central and Southern Florida Flood Control District (FCD) resulted from the need to respond to drought and flood conditions in south Florida. The main responsibility of the FCD through 1972 was to act as local sponsor for the U.S. Army Corps of Engineers construction project.

In accordance with South Florida's changing demand for, and perception of, water resources management, the Florida State Legislature enacted the Water Resources Act in 1972. This act divided the state into five regional districts, naming one of them as the South Florida Water Management District (SFWMD). This act (Chapter 373, Florida Statutes) also greatly expanded the previous responsibilities of the FCD. Watersheds and other natural, hydrologic, and geographic features determine the districts' boundaries.

Today, the SFWMD operates and maintains the structures and conveyances built by the FCD. These consist of 1,800 miles of canals and levees, 25 major pumping stations, and about 200 large and 2,000 small water control structures.

The SFWMD spans 16 counties and includes vast areas of agricultural lands, water conservation areas, and areas of rapid urban growth and development.

Consumptive Use Permitting

After construction of a viable ASR pilot project and conducting cycle testing, a water use permit for the established system and any planned expansion must be obtained from the SFWMD. This may be a modification of any existing permit for a particular utility, or a new permit for either an existing utility or for a new subregional entity. The main purpose for obtaining a water use permit for an ASR system is the same as that for obtaining any other water use permit in the State; namely it establishes the prior rights of the permittee to those applicants which may want to use an aquifer in the area in the future.

U.S. Army Corps of Engineers (ACOE)

The ACOE regulatory program includes the review of dredge and fill activities in waters of the United States, construction in navigable waters and the disposal of dredge material in offshore locations. Section 404 of the Clean Water Act requires that permits be received for the deposition of fill in waters or adjacent wetlands of the United States, the construction of revetments, groynes, levees, dams or weirs, and the placement of riprap. Section 10 of the Rivers and Harbors Act of 1899 requires that permits be obtained for activities that affect navigable waters. The ACOE also has Memorandums of Agreement (MOA) with other federal agencies such as the U.S. Fish and Wildlife Service (FWS) and the U.S. Department of Environmental Protection. These agreements allow for the agencies to provide input during the review process on issues such as federally listed wildlife species and wetland impacts associated with the projects under review. In determining whether to issue a permit, the ACOE must also comply with other requirements, including Section 7 of the Endangered Species Act of 1973 (50 CFR Part 402), the National Environmental Policy Act of 1969, the Coastal Zone Management Act, the Fish and Wildlife Coordination Act and other applicable federal laws.

Illustrated below are the possible constraints by federal and state regulations broken down by RIDS alternative.

Regulatory Constraints by Alternative

Source	Regulatory Agency	Constraint
Surface Water	FDEP	Safe Drinking Water Act – Disinfection Byproducts (DBPs), Surface Water Treatment Rules, Primary and Secondary Drinking Water Standards; Permitting and Construction of Public Water System; Regulation of Wells
	SFWMD	Water Use Permit (WUP) Minimum Flows and Levels (MFLs) Reservations
Surface Water ASR	FDEP	Safe Drinking Water Act – Disinfection Byproducts (DBPs), Surface Water Treatment Rules, Primary and Secondary Drinking Water Standards; Permitting and Construction of Public Water System; Regulation of Wells; Underground Injection Control (UIC)
	SFWMD	WUP MFLs Reservations
Reclaimed Water	FDEP	Wastewater Facilities, Collection Systems and Transmission Facilities, Reuse of Reclaimed Water and Land Application
Reclaimed Water ASR	FDEP	Wastewater Facilities, Collection Systems and Transmission Facilities, Reuse of Reclaimed Water and Land Application, Primary and Secondary Drinking Water Standards, Regulation of Wells, UIC
	SFWMD	WUP

Lee County Regulations

Lee County does not have a basin board; therefore, the majority of water rules and regulations are determined by the District, FDEP, or federal rules. However, Lee County is proactive in that both existing and new developments must use reclaimed water for irrigation over potable wherever feasible and within the utility service area.

Lee County Municipal Code, Sec. 10-354 -Reuse Water System

This portion of the Municipal Code states that, wherever feasible, the irrigation of grassed or landscaped areas must be provided for through the use of a second water distribution system supplying treated wastewater effluent or reuse water. All proposed developments should be designed to maximize the use of reclaimed water whether located in the utility service area or from an on-site wastewater treatment facility.

For other information on Lee County regulations, refer to the Lee County Municipal Code, SFWMD, and FDEP regulations.

City of Fort Myers

The City does not have a basin board; therefore, the majority of water rules and regulations are determined by the District, FDEP, or federal rules.